

REMARKS

Claim 3 has been amended. Claims 1-3 remain pending. Reconsideration and reexamination of the application, as amended, are requested.

The Examiner rejected claim 3 under 35 USC §112, second paragraph, as being indefinite. The Examiner's comments have been considered, and claim 3 has been amended. It is submitted that claim 3 is definite.

The Examiner rejected claim 1 under 35 USC §102 (e) as being anticipated by US Publication No. 2003/0181201 A1 (Bomze). The Examiner rejected claim 3 under 35 USC §103(a) as being obvious on consideration of Bomze in view of Gerszberg et al. Applicant submits that Bomze is not prior art and, hence, the rejections are moot.


Bomze has a publication date of September 25, 2003. According to the USPTO Patent Application Information Retrieval (PAIR) System, Bomze was abandoned January 12, 2004, for failure to respond to an office action. Hence, the prior art date of the Bomze reference is its publication date of September 25, 2003. Applicant's filing date is December 1, 2001. Since Applicant's filing date precedes the publication date, Bomze is not prior art. The present rejections are not proper.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration and reexamination are requested. Allowance of claims 1-3 at an early date is solicited.

Respectfully Submitted,

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